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cont

(ii) a second facilitator substance having a concentration effective for aiding in the infusion of the first substance into said at least one cell whose concentration is greater than 20% of the total composition, wherein the combined concentration of said first and second substances is [greater than 30%] equal to 100% of said composition;

- (b) contacting said at least one cell in said sample with said composition;
- (c) incubating said sample with said composition for an effective period of time and at an effective temperature;
- (d) obtaining said at least one cell with stabilized structure and nucleic acids in said sample.

REMARKS

Claims 13-16 and 18-32 are in the present application.

In order to advance prosecution, Applicants have cancelled Claims 1-12 and 17. Applicants have also amended Claim 13 in order to further clarify the subject matter of the present invention.

The Examiner has rejected Claims 1-32 under 35 USC §112, first paragraph, as allegedly containing new matter. Applicants have cancelled Claims 1-12 and have amended Claim 13. Accordingly, withdrawal of this rejection is respectfully requested.

The Examiner has rejected Claims 1-32 under 35 USC §112, first paragraph, as allegedly containing subject matter not described in the specification in such a way as to reasonably convey, to one of ordinary skill in the art, that Applicants had possession of the claimed invention at the time the application was filed. Applicants respectfully submit that the Examiner's allegation that the Specification does not teach the method for the large genus of cells as claimed is incorrect. The cell types are illustrated in Example 13. Accordingly, withdrawal of the present rejection is respectfully requested.

Claims 1-5, 7-17, 21 and 25-31 have been rejected under 35 USC §102(b) as allegedly anticipated by Dent et al.

Dent et al. is a reference that teaches how to stabilize protein structures in oocytes. It does not teach how to stabilize nucleic acids. There is no mention in Dent et al. of nucleic acids (DNA or RNA, or ribosomal RNA). A person skilled in the art of nucleic acids would

not, therefore, study this reference to learn how to stabilize nucleic acids for further work up. Second, the teaching is limited to so-called Dent's fixative: 20% DMSO-80% methanol. Prior to fixing, the "sample" (*Xenopus* embryos) has to be pre-treated, i.e., dejellied with 2% cysteine at pH8.0 and then allowed to incubate in 20% Ringers' solution. The fixation in Dent's fixative was then carried out for only 2-12 hours, followed by further treatments in hydrogenperoxide to bleach any pigment.

Thus with respect to the present rejection under Section 102(b), Dent et al. do not provide any teachings with respect to nucleic acids.

Although the claims have been rejected as anticipated under 35 USC §102(b) on the disclosure of Dent et al., it is axiomatic that anticipation under Section 102 requires that the prior art reference disclose every element of the claim. In re King, 801 F.2d 1324, 1326, 231 U.S.P.Q. 136, 138 (Fed. Cir. 1986). Thus there must be no differences between the subject matter of the claim and the disclosure of the prior art reference. Stated in another way, the reference must contain within its four corners adequate directions to practice the invention. the corollary of this rule is equally applicable. The absence from the reference of any claimed element negates anticipation. Kloster Speedsteel AB v. Crucible Inc., 793 F.2d 1565, 1571, 230 U.S.P.Q. 81, 84, (Fed. Cir. 1986).

Here it is clear that Claim 13 as amended and all claims dependent thereon differ from Dent et al. Clearly, Kloster Speedsteel shows that Dent et al. falls far short of the statutory standard of 35 USC 102(b). Claims 13-16, 21 and 25-31 are not anticipated by Bresser et al. Withdrawal of the instant rejection under Section 102 is therefore respectfully requested.

Claims 6,18-20,22,24 and 32 have been rejected under 35 USC §103(a) as allegedly rendered unpatentable by Dent et al. and further in view of Bresser et al. Neither Dent et al. nor Bresser et al., singly or in combination, teach or suggest the claimed invention.

Dent et al. provides no teachings regarding stabilization of nucleic acids as discussed in detail above. Bresser et al. teach away from the claimed invention as amended and thus do not teach or suggest the claimed invention. There are no teachings in the combination of Dent et al. and Bresser et al. that would lead one of ordinary skill to achieve the claimed invention as amended. Withdrawal of the present rejection under Section 103 is therefore respectfully requested.

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In view of the above Amendments and Remarks, Applicants believe that the present application is in condition for allowance, which action is earnestly solicited.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Bruce S. Weintraub", with a stylized flourish at the end.

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